



Support : HR Professionals : Employment of Foreign Nationals

## FAQs - Employment Authorization Document

### Employment Authorization Document

#### Definition

- [What is an Employment Authorization Document?](#)
- [When may a foreign national work in the United States without an Employment Authorization Document?](#)

#### Application Process

- [How does an employee apply for an Employment Authorization Document \(EAD\)?](#)
- [What are the requirements for filing an EAD application online?](#)
- [What do I need to include with my application for EAD?](#)
- [Are there any specifications for EAD photographs?](#)
- [How is a person eligible for an Interim Employment Authorization Document?](#)

#### Eligibility

- [Who is eligible to apply for and EAD?](#)
- [What are the most common categories associated with obtaining an employment authorization document?](#)

#### Fees

- [Are there fees associated with the EAD application?](#)
- [Who is exempt from paying the EAD application fee?](#)

#### Decisions

- [What happens after an employee submits a completed EAD application?](#)
- [How long does it typically take to receive a decision on an EAD application?](#)
- [Can an employee appeal a denial of an EAD application?](#)
- [Can an Employment Authorization Document be terminated before the expiration date?](#)

#### Definition

**What is an Employment Authorization Document?**

Certain aliens who are temporarily in the United States can be eligible to apply for permission to work. This permission is not a visa, but is often derived from a benefit of a particular visa status.

- EAD- Proves that a person is allowed to work in the United States
- Renewal EAD- Eligible workers should apply for a renewal 4 months (120 days) before their current authorization expires. Applications filed more than 120 days before the expiration date of the current card will be denied by USCIS.
- Replacement EAD- Replaces lost, stolen or mutilated EAD. Also replaces an EAD that was issued with incorrect information.
- Interim EAD- Issued if the USCIS has not reached a decision on an EAD application within 90 days of the application's submission.

### **When may a foreign national work in the United States without an Employment Authorization Document?**

If an employee has received authorization to work for a specific employer, he/she does not need an EAD. The passport and I-94 card proves that he/she may work in the U.S. A full list of people who do not require EAD is at [8 CFR 274a.12\(b\)](#).

## **Application Process**

---

### **How does an employee apply for an Employment Authorization Document (EAD)?**

A potential worker may file form [I-765](#) by mail or electronically. However, the procedures for filing the form electronically are different than the procedures for filing by mail. Some applicants are not eligible to file electronically, so workers must read the [eligibility requirements for filing online](#) before submitting an application.

### **What are the requirements for filing an EAD application online?**

A worker may not file an I-765 application online if:

- He/ she lives outside the United States , Guam, Puerto Rico or the U.S. Virgin Islands
- He/ she is requesting a waiver of the filing fee
- He/ she is requesting that the case be expedited
- He/ she is filing to correct a USCIS administrative error
- He/she is an applicant who is applying for an EAD as the spouse of an E-3 principal alien.

He/ she is applying under one of the following categories:

Category 274a.12(a)

(1) Lawful Permanent Resident

(2) Legalization Temporary Resident

(9) K-3 Nonimmigrant Spouse of U.S. Citizen or K-4 Dependent

(12) Temporary Protected Status (TPS) - TPS applicants may file only for re-registration via the e-Filing

System; e-Filing is not available for initial or late initial registration. .

(14) LIFE Legalization

(15) V-1, 2 or 3 Nonimmigrants

(16) T principal renewals

Category 274a.12(c)

(1) Dependent of A-1 or A-2 Foreign Government Officials

(4) Dependent of G-1, G-3 or G-4 Nonimmigrants

(7) NATO Dependent

(10) NACARA Section 203 Applicants who are eligible for NACARA relief

(12) Not in use

(13) Not in use

(15) Not in use

(19) Temporary Protected Status - E-Filing is currently available for re-registrants for El Salvador . However, E-Filing is not available for initial and late initial registrants from El Salvador . E-Filing is also currently not available for initial registrants, re-registrants, and late initial registrants from Burundi , Honduras , Nicaragua , Liberia , Somalia , and Sudan .

(21) S Nonimmigrant

(23) Irish Peace Process

(24) LIFE Legalization

### **What do I need to include with my application for EAD?**

A complete application will include:

- A copy of an I-94, front and back
- A copy of employee's previous EAD
- 2 photos with a white background taken no earlier than 30 days before submission to USCIS

There are additional requirements for certain EAD applications. For those specifics, please see <http://uscis.gov/graphics/formsfee/forms/files/i-765.pdf> .

### **Are there any specifications for EAD photographs?**

The passport-style photos must be 2" x 2." The photos must be in color with full face, frontal view on a white to off-white background. Head height should measure 1" to 1 3/8" from top of hair to bottom of

chin, and eye height is between 1 1/8" to 1 3/8" from bottom of photo. Your head must be bare unless you are wearing a headdress as required by a religious order of which you are a member. Using pencil or felt pen, lightly print your name and Alien Receipt Number on the back of the photo.

### **How is a person eligible for an Interim Employment Authorization Document?**

If the USCIS does not approve or deny your EAD application with 90 days (or within 30 days for an asylum seeker; note: asylum applicants are eligible to file EAD applications only after waiting 150 days from the date they filed their properly completed original asylum applications), you may request an Interim Employment Authorization Document.

Employee must go to his/her local USCIS office and bring proof of identity along with any documents that USCIS has sent about the EAD application.

## **Eligibility**

---

### **Who is eligible to apply for and EAD?**

The categories that require employment authorization include, but are not limited to, asylees and asylum seekers, refugees, students seeking particular types of employment, applicants to adjust status to permanent residence, people in or applying for temporary protected status, fiancés of American Citizens, dependents of foreign government officials. See I-765 application for complete list of EAD categories.

### **What are the most common categories associated with obtaining an employment authorization document?**

Categories of eligibility for an Employment Authorization are included in the instructions on the application form [I-765](#). Explanations of the following categories are given at that site:

- |  |   |
|--|---|
| 1. Refugee   | 17. Domestic servant of U.S. Cit          |
| 2. Asylee  | 18. B-1 Employed by foreign airline       |
| 3. Asylum Applicant                                  | 19. Spouse of Trader/Investor             |
| 4. Citizen of Micronesia , Marshall Islands or Palau | 20. Spouse of L-1 Intracompany transferee |
| 5. Deferred Enforced Departure                       | 21. K-1 Fiance                            |
| 6. Temporary Protected Status                        | 22. K-3 Spouse of U.S. Cit                |
| 7. Temporary Treatment Benefits                      | 23. Family Unity                          |
| 8. NACARA  | 24. LIFE Family Unity                     |
| 9. Dependent of TECRO                                | 25. V Nonimmigrant                        |
| 10. F-1 Student seeking optional practical training  | 26. Adjustment Applicant                  |
| 11. F-1 Student, Off campus job                      | 27. N Nonimmigrant                        |
| 12. F-1 Economic hardship                            | 28. Withholding of Removal                |
| 13. J-2 Spouse of exchange visitor                   | 29. Suspension of Deportation             |
| 14. M-1 Student Optional Practical Training          | 30. Paroled in the Public Interest        |
| 15. Dependent of Gov't Official                      | 31. Deferred Action                       |
| 16. Domestic Servant of a nonimmigrant               | 32. Final order of Deport                 |
|  | 33. LIFE Applicant                        |
|  | 34. T Nonimmigrant                        |

## Fees

---

### Are there fees associated with the EAD application?

Applicants must pay a fee of \$340 to file the form, unless the employee is exempt. If a fee is required, it will not be refunded even if the application is denied for any reason.

### Who is exempt from paying the EAD application fee?

#### Initial Employment Authorization

Initial EAD : If this is your initial application and you are applying under one of the following categories, a filing fee is not required:

- (a)(3) Refugee;
- (a)(4) Paroled as Refugee;
- (a)(5) Asylee;
- (a)(7) N-8 or N-9 nonimmigrant;
- (a)(8) Citizen of Micronesia , Marshall Islands or Palau ;
- (a)(4) Paroled as Refugee;
- (a)(10) Granted Withholding of Deportation;
- (a)(11) Deferred Enforced Departure;
- (c)(8) Applicant for asylum [an applicant filing under the special ABC procedures must pay the fee].
- (c)(1), (c)(4), or (c)(7) Dependent of certain foreign government, international organization, or NATO personnel; or
- (c)(8) Applicant for asylum [an applicant filing under the special ABC procedures must pay the fee].

Renewal EAD : If this is a renewal application and you are applying under one of the following categories, a filing fee is not required:

- (a)(8) Citizen of Micronesia , Marshall Islands , or Palau ;
- (a)(10) Granted Withholding of Deportation;
- (a)(11) Deferred Enforced Departure; or
- (c)(1), (c)(4), or (c)(7) Dependent of certain foreign government, international organization or NATO personnel.

If you filed a Form I-485, Application to Register Permanent Residence or Adjust Status, on July 30, 2007, or after, then no fee is required to file a request for employment authorization on Form I-765. You may file the I-765 concurrently with your I-485, or you may submit the I-765 at a later date. If you file Form I-765 separately, you must also submit a copy of your Form I-797C, Notice of Action, receipt as evidence of the filing of an I-485.

## Decisions

---

### **What happens after an employee submits a completed EAD application?**

If an employee's application is complete and filed at an INS service center, he/she will be mailed a form I-797 receipt notice. However, an application filed without the required fee, evidence, signature or photograph, will be returned to the employee.

### **How long does it typically take to receive a decision on an EAD application?**

The processing time varies, but if the employee has not received a decision within 90 days of receipt by Immigration Services, or within 30 days of an asylum based application, he or she may request interim work authorization by appearing in person at a local Immigration office. The employee must bring proof of identity and any notices that he/she has received from the INS in connection with the EAD application. This "Interim" EAD is temporary, and may be used for up to 240 days.

### **Can an employee appeal a denial of an EAD application?**

No, not really. If an EAD application is denied, the employee will receive a letter stating the reasons for denial. An appeal cannot be made to a higher authority. However, the employee may submit a motion to reopen or a motion to reconsider with the office that made the negative decision. By filing these motions, the employee may ask the office that made the decision to reexamine or reconsider the decision. A motion to reopen must state the new facts that are to be provided in the reopened proceeding and must be accompanied by affidavits or other documentary evidence. A motion to reconsider must establish that the decision was based on an incorrect application of law or USCIS policy, and further establish that the decision was incorrect based on the evidence in the file at the time the decision was made.

### **Can an Employment Authorization Document be terminated before the expiration date?**

There are several circumstances under which an employment authorization document can be terminated.

- The expiration date specified by the Service on the EAD card is reached
- Deportation proceedings are instituted
- Prior to the expiration date, any condition upon which authorization was granted has not been met, or no longer exists
- Information in the application was not true or correct